

LEGISLATIVE AUDIT COMMISSION

Legislative Audit Commission

November 13, 2020

1:00 p.m.

Remote Hearing

AGENDA

- I. Finalize the performance reviews of the Legislative Auditor and Deputy Legislative Auditor
- II. Consider approval of James Nobles' appointment of the Deputy Legislative Auditor for the Financial Audit Division, Lori Leysen
- III. Hear from MMB regarding OLA's proposal for the Single Audit
 - Cindy Farrell, MMB Assistant Commissioner
 - Eric Hallstrom, MMB Deputy Commissioner
- IV. Discuss OLA budget options
- V. Discuss OLA housekeeping bill

1 LEGISLATIVE AUDIT COMMISSION (LAC)

2
3 Legislative Auditor Performance Evaluation Policy

4
5 **Annual Evaluation.**

6 The chair and vice-chair of the LAC, acting jointly, must conduct an annual
7 performance assessment of the legislative auditor. The assessment must cover a period
8 of one year commencing with the date of the auditor's appointment. Additional
9 performance assessments must cover each year following the anniversary date of the
10 appointment. If the vice-chair is a member of same political party as the chair, the
11 LAC must designate an alternative member of the LAC, who is a member of a
12 different political party than the chair, to work with the chair in conducting the
13 assessment.

14 The purpose of the assessment is to review the work of the auditor, and to review
15 the organization and function of the auditor's office generally. The assessment must
16 result in a report that may be used by the LAC in guiding the work of the office. In the
17 year before the auditor's term expires, the assessment may be used for making
18 decisions about the appointment of the auditor.

19 **Assessment Components.**

20 The assessment must be guided by the following principles and procedures:

- 21 • No later than 30 days before initiating the performance assessment, the
22 executive subcommittee must adopt a timetable and work plan to guide the
23 assessment process.
- 24 • The assessment must include a comprehensive analysis of the auditor's work
25 that includes, at a minimum, a written self-reflection prepared by the auditor
26 and must include observations and feedback provided by the auditor's staff,
27 legislators, and other interested stakeholders.

- 1 • At the discretion of the executive subcommittee, the assessment may include
2 other procedures for conducting a performance assessment of senior legislative
3 staff, as recommended by the National Conference of State Legislatures.
- 4 • The assessment must include an in-person meeting that includes the chair,
5 vice-chair (or the designees of the LAC), to discuss the work of the auditor
6 and the auditor's office, and the results of the comprehensive analysis.
- 7 • The assessment is complete after the chair and vice-chair deliver a report of the
8 assessment to each member of the LAC. In the year preceding the expiration
9 of the auditor's term, the report may include a recommendation regarding the
10 reappointment of the auditor, and may also recommend areas of the auditor's
11 performance for follow-up or monitoring. The report must not disclose
12 information that is protected by law.
- 13 • After the third year of the auditor's term, the executive committee shall approve
14 a work plan and schedule for an independent, comprehensive analysis of the
15 auditor's performance to be conducted by an independent entity that is not
16 part of the legislative, judicial, or executive branch. The independent entity must
17 provide a report to each member of the LAC.

18 **Review of Deputy Auditors.**

19 The auditor, in consultation with the chair and the vice-chair, must conduct an annual
20 comprehensive performance assessment of each deputy auditor that covers one year of
21 work. The auditor must provide a report regarding these assessments, including any
22 recommendations, to the chair and vice-chair of the LAC. Each deputy auditor may
23 separately make the deputy auditor's performance assessment available to the public.

Lori Leysen, CPA
Audit Director
Office of the Legislative Auditor

August 26, 2020

Dear Mr. Nobles,

I am writing to express my interest in the Deputy Legislative Auditor position. In my time at the Office of the Legislative Auditor, I have shown not only my commitment to the work that we do but also to the employees who perform the work and those in support positions. In addition, I believe that I have already demonstrated an aptitude to embody many of the job duties required of the position.

In conducting and overseeing audits, I pride myself in ensuring that each audit begins with a strong foundation and ends with a report that is accurate, clear, and concise. This strong foundation comes from a comprehensive understanding of accounting principles, auditing standards, and state government, which I have obtained through participation in and facilitation of trainings, and by establishing and maintaining the required Government Auditing Standards system of quality control. As an audit concludes, I finalize each report in a way that effectively conveys the message of the work performed and prepares me for any presentations that may ensue.

I am currently responsible for motivating and monitoring employees to produce effective and efficient audit work. At the start of an audit, I consider each employee's skills as well as areas for improvement. I make a concerted effort to set each auditor up for success by setting a budget, providing clear expectations, and making sure all auditors have access to required and necessary resources. As the audit proceeds, I meet with each team weekly to review progress and to discuss the work being performed. If concerns are identified, the team works together to address and resolve the issues. However, when an issue arises that is not appropriate for the team to address, I promptly and professionally address the matter by taking the time to understand and taking the necessary steps to resolve.

I believe that my experience and dedication to the Office of the Legislative Auditor makes me a strong candidate. If offered the position, I will lead with integrity, humility, and empathy. I will place the needs of the office and the employees before my own, and I will ensure that our work continues to be purposeful for the legislature, the auditees, and the citizens of Minnesota. I look forward to discussing my qualifications with you.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Leysen", with a stylized, cursive script.

Lori Leysen, CPA

PROFESSIONAL EXPERIENCE

Audit Director

Office of the Legislative Auditor

Saint Paul, Minnesota

January 2018 to Present

- Plan and oversee performance and financial audits to ensure adherence to applicable auditing standards
- Provide clear and concise presentations to the legislature
- Recruit, hire, and train new employees and interns
- Supervise team of approximately seven staff
- Monitor and maintain system of quality control including policies, staff independence, peer reviews, and division-wide trainings

Audit Coordinator

Office of the Legislative Auditor

Saint Paul, Minnesota

April 2017 to January 2018

- Led and supervised a team of auditors in special reviews and performance audits
- Planned and implemented a training program for staff and senior auditors
- Facilitated internal trainings based on auditor needs
- Assisted in the hiring process from outreach, reviewing applicants, interviewing, and orientation
- Actively participated in leadership meetings
- Implemented quality control through policy changes, training approval, peer review, and oversight of independence
- Communicated issues to auditees both verbally and in writing

Program Manager

Lutheran Social Service of Minnesota

Shoreview, Minnesota

December 2004 to March 2009

- Assisted in budget development and the implementation of essential budgetary changes
- Hired, supervised, evaluated, and terminated staff
- Delivered presentations to counties, community organizations, and businesses
- Created and maintained staff schedule and provided on-call services to aid staff in crisis management
- Developed and implemented a comprehensive annual training schedule
- Recruited volunteers to enhance youth services and community integration

ADDITIONAL EXPERIENCE

Senior Auditor

Office of the Legislative Auditor

Saint Paul, Minnesota

June 2015 to April 2017

Staff Auditor

Office of the Legislative Auditor

Saint Paul, Minnesota

January 2013 to June 2015

EDUCATION

Saint Catherine University

Bachelor of Science in Healthcare Management

Bachelor of Science in Accounting

GPA 3.9

Saint Paul, Minnesota

December 2012

December 2012

Active CPA license with the Minnesota Board of Accountancy

CPA firms conduct at least a portion of the Single Audit in most states.

State or Legislative Auditor Conducts All of Single Audit (17)	State or Legislative Auditor and CPA Firm Jointly Conduct Single Audit (18)	CPA Firm Conducts All of Single Audit (14)
Connecticut	Alabama	California
Florida	Alaska	Delaware
Idaho	Arizona	Hawaii
Indiana	Arkansas	Illinois
Iowa	Colorado	Kansas
Kentucky	Georgia	Maryland
Louisiana	Michigan	Massachusetts
Maine	Minnesota ^a	Nevada
Montana	Mississippi	New Hampshire
Nebraska	Missouri	New Jersey
North Carolina	New Mexico	New York
Ohio	North Dakota	Vermont
Oregon	Oklahoma	West Virginia
Tennessee	Pennsylvania	Wyoming
Virginia	South Carolina	
Washington	South Dakota	
Wisconsin	Texas	
	Utah	

NOTES: Information was not available for Rhode Island; both Guam and Puerto Rico rely on a CPA firm to conduct the single audit. Who selects the CPA firm varies by state; sometimes the auditor selects the CPA firm, sometimes the state agency (such as MMB or others) selects the firm, and sometimes the agency selects the CPA firm with input from the auditor.


^a The Office of the Legislative Auditor conducts most of the state's single audit; Minnesota State contracts with a CPA firm to conduct the single audit for the federal funds it receives.

SOURCE: National Association of State Auditors, Comptrollers and Treasurers, *Auditing in the States, A Summary 2020 Edition*, Table 4, pp. 16-18, https://www.nasact.org/files/Member_Content/Publications/Auditing_in_States/2020_AIS.pdf, accessed September 25, 2020.



Date: September 23, 2020

To: Members, Legislative Audit Commission

From: Jim Nobles, Legislative Auditor 

Subject: Refocusing OLA's Audit Resources and the "Single Audit"

As you know, OLA has an extremely large audit jurisdiction. Therefore, we must have a strategic approach in using our Financial Audit Division's limited staff resources. A key principle we have used in that effort is to prioritize audits that address the core agencies and programs of state government. Another principle is to focus on audits that are most likely to help the Legislature in its oversight of state government. In addition, we focus on audits that OLA is uniquely equipped to perform because of our strong legal authority to require cooperation and disclosure.

Using these principles, we have dropped almost all financial statement audits. For example, we do not audit the financial statements of the University of Minnesota, Minnesota State, Minnesota Agricultural Society (State Fair), Minnesota Housing Finance Agency, the Metropolitan Mosquito Control District, and the Metropolitan Airports Commission. We have, however, always retained the authority to conduct investigations or audits of specific aspects of these organizations. We have also retained our audit of the State of Minnesota's Financial Statements; to drop that financial statement audit would require an amendment to OLA's governing law in Minnesota statutes.

To continue our refocusing efforts, OLA plans to discontinue its annual audit of the state's use of federal funds. Federal law mandates that organizations that receive a significant amount of federal money must have an annual independent audit that examines an organization's use of the federal funds it received. There is no provision in Minnesota law or federal law that requires OLA to perform the State of Minnesota's "Single Audit," and many organizations fulfill the federal mandate by hiring a qualified private audit firm. If OLA stops conducting the Single Audit for the state, the Commissioner of the Department of Management and Budget (MMB) would be responsible for hiring a private audit firm, and there are several firms in Minnesota with experience conducting Single Audit work. We will be discussing our plan with Commissioner Schowalter soon.

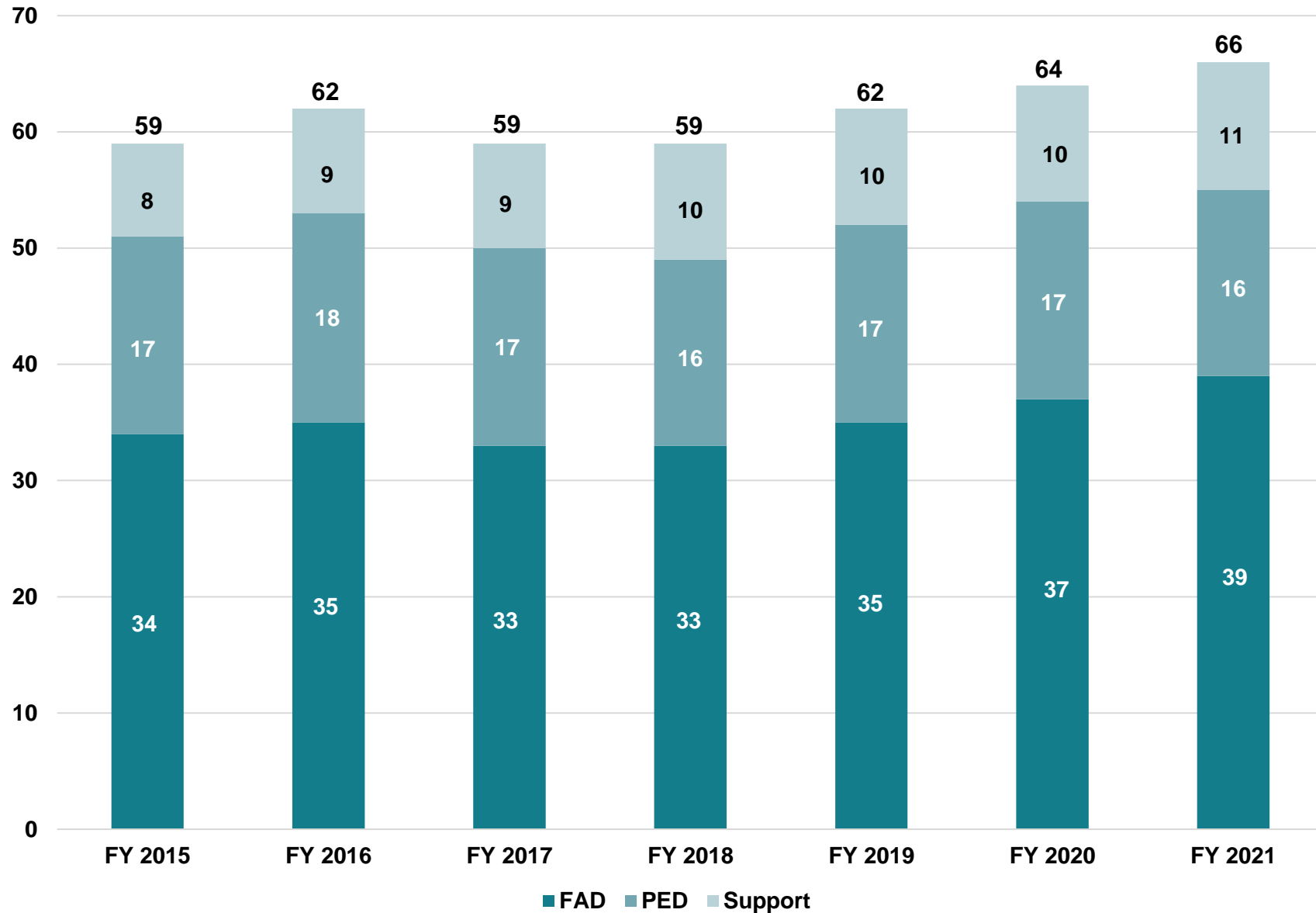
OLA's need to drop the Single Audit from our annual work schedule has become more urgent in the last few years, as the federal audit requirements have become more complex and more focused on federal and not state concerns. For example, in 2019, OLA used approximately 14,500 hours to complete the Single Audit. We recently estimated that this year, OLA will need to use approximately 19,100 hours to complete the Single Audit. This significant increase

resulted in part from the new federal requirement to audit the federal funds the state received under the Coronavirus Relief Fund Program. But it is also the result of the ever-increasing complexity of federal programs and federal audit requirements associated with that increased complexity.

To put these numbers in perspective, we estimate that OLA will consume approximately 35 percent of its available staff hours in completing the current Single Audit. We do not think this is the most productive use of so many OLA staff resources since the audit typically results in quite technical findings of primary interest to the federal agencies that administer these programs. We want to drop the Single Audit from OLA's work schedule so we can shift those hours to audit what we think will be of greater importance and relevance to Minnesota legislators and executive officials.

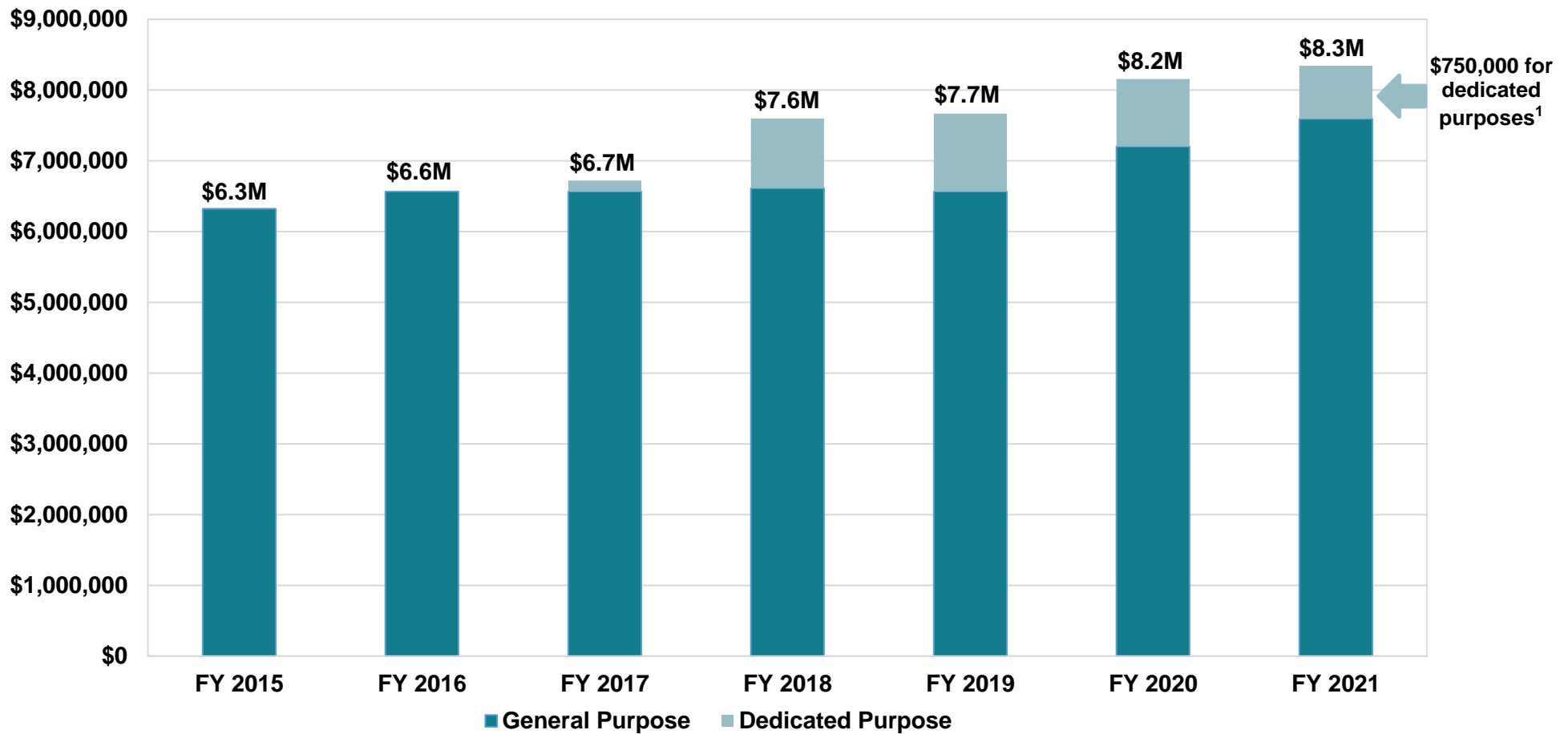
We look forward to discussing our plan with you.

OLA Staff Summary



NOTES: Support staff include the Legislative Auditor, Legal Counsel, Legal Assistant, Special Review Director, three IT staff, and four administrative staff. OLA currently has six vacant positions.

OLA Appropriations



¹ \$400K is for DHS eligibility audits, \$300K is for MCO audits, and \$50K is for VTRS audits.

Expenditure Summary

	FY21	FY20	FY19	FY18	FY17	FY16	FY15
Expenditures							
Personnel (91.6%)	\$ 7,258,355	\$ 7,106,272	\$ 6,502,229	\$ 6,340,201	\$ 5,934,132	\$ 5,952,022	\$ 5,557,859
Lease (3.8%)	\$ 277,989	\$ 272,856	\$ 266,600	\$ 259,085	\$ 250,310	\$ 251,765	\$ 252,313
IT (2.1%)	\$ 167,500	\$ 159,251	\$ 173,540	\$ 123,363	\$ 128,123	\$ 112,250	\$ 142,987
Other (2.5%)	\$ 170,600	\$ 131,603	\$ 162,418	\$ 181,553	\$ 130,692	\$ 227,982	\$ 237,294
Total Expenditures	\$ 7,874,444	\$ 7,669,982	\$ 7,104,786	\$ 6,904,201	\$ 6,443,256	\$ 6,544,019	\$ 6,190,453

Personnel amount for FY21 includes funding for filling vacant positions, but does not include possible salary increases (cost of living and performance).

OLA Budget Options

OLA was asked to prepare budget options for the Legislative Audit Commission to discuss. The table below reflects possible budget options for FY 2022.

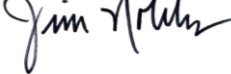
	Explanation	Annual Appropriation	Comments
Option 1	10% Reduction	\$7,466,400	Would result in 9-10 positions eliminated
Option 2	5% Reduction	\$7,881,200	Would result in 4-5 positions eliminated
Option 3	Status Quo	\$8,296,000	Additional flexibility regarding DHS dedicated funds and Single Audit may allow us to dedicate more staff to special reviews or other priorities.
Option 4	Add 2 Special Review Staff	\$8,483,178	Would create a team of 3 staff to handle special reviews
Option 5	Add 2 IT Audit Staff	\$8,547,390	Would create a team of 4 IT auditors to provide oversight of state's IT systems

NOTES: Figures assume current salary levels and use FY 2021 appropriations as the base.



Date: November 13, 2020

To: Members of the Legislative Audit Commission

From: Jim Nobles, Legislative Auditor 

Subject: Proposed Changes to OLA Statutes

I request your support for the following changes to OLA statutes. This memorandum explains why we are requesting each change. After presenting these proposed changes, I note two other possible changes the commission may want to consider.

Once commission members agree on the changes they support, I will have the Revisor draft a bill for introduction in the 2021 session.

Proposed Changes

1. **Change the name given in law to OLA “confidential secretaries.”** The 1973 law that created OLA authorized the Legislative Auditor and the two Deputy Legislative Auditors to each appoint a “confidential secretary.” That title no longer conveys the functions these staff perform. Rather than serving as secretaries to individuals, they are responsible for a large number of complex office-wide administrative support functions. I think “administrative support specialist” would be a more appropriate position title.
2. **Restrict political activity of OLA employees.** As employees in a legislative nonpartisan office, OLA employees should not be allowed to engage in some political activities, such as running for a political office or managing a political campaign. We think this is essential to OLA’s ability to be a source of nonpartisan, independent, and objective audits, evaluations, and investigations. However, because OLA employees are in the classified civil service, state law mandates that their appointing authority must allow them a leave of absence to engage in political activities, including running for a political office. We request that OLA’s governing law disallow OLA employees from using that provision. We also request that the law authorize the Legislative Auditor to establish an independence code of conduct that OLA employees must follow. We note that most other nonpartisan legislative offices have restricted their employees’ political activities by internal informal policies and actions. However, the law governing employees of the Revisor of Statutes explicitly prohibits those employees from “activities of a partisan nature.”
3. **Eliminate mandate to appoint a “fiscal oversight officer” for OLA reviews of Metro Transit finances.** A 2017 law required the Legislative Auditor to conduct quarterly reviews of Metro Transit financial activity and the Legislative Auditor to appoint a “fiscal oversight officer” to conduct the reviews. In 2019, the Legislature repealed the

law requiring the reviews, but the provision requiring the Legislative Auditor to appoint a “fiscal oversight officer” to conduct the reviews was not repealed. Requiring the Legislative Auditor to appoint such an “officer” was originally unnecessary since the Legislative Auditor has authority to assign OLA staff to conduct specific audits and reviews. The requirement is even more unnecessary given the repeal of the requirement for OLA to conduct reviews of Metro Transit financial activities.

4. **Eliminate the statutorily mandated scope and timing for OLA audits of the Minnesota Department of Human Services.** A 2017 law required OLA to make audits of DHS programs and services a “high priority.” We think that is an appropriate legislative directive, but we request that the Legislature eliminate the section of the law that mandates a schedule, scope, and testing methodology for the audits. As with other audits, those details should be decided by OLA.
5. **Condition OLA audits of managed care organizations on resources being available.** A 2017 law required OLA to “audit each managed care organization that contracts with the commissioner of human services to provide health care service.” Since that mandate was enacted, OLA has completed three MCO audits. While the audits are highly complex and resource intensive, we think they are worth continuing since the state pays MCOs a large amount of money each year to provide services to eligible recipients. In the two past biennia, OLA received dedicated funding for the MCO audits, and we still have money in that account we can transfer into the next two fiscal years and use for MCO audits. However, since the state’s budget challenges make that source of funding, as well as new funding, uncertain, we think conditioning future OLA audits of MCOs on resources being available seems prudent. That language would also be consistent with other legislative mandated audits, which are also typically conditioned on “resources being available.”
6. **Eliminate mandate that OLA audit the Minnesota Department of Transportation.** This mandate is not necessary; OLA frequently conducts audits (and evaluations) at MnDOT.
7. **Eliminate mandate that OLA audit the Minnesota Department of Public Safety.** This mandate is not necessary; OLA frequently conducts audits (and evaluations) at DPS.
8. **Clarify OLA’s authority to obtain data and documents.** Some organizations OLA audits have asserted that they have a role in determining whether OLA “needs” certain data and documents for an audit, evaluation, or special review. The change would make it clear that the Legislative Auditor makes that determination.
9. **Shift “Single Audit” Requirement to the Commissioner of the Minnesota Department of Management and Budget.** In a memorandum dated September 23, 2020, to the Legislative Audit Commission, I presented the reasons OLA wants this change. Rather than repeat those reasons here, we have included a copy of that memorandum in the commission’s folder for today’s meeting.

Other Possible Changes

- 10. Eliminate language that makes OLA subject to the Minnesota Government Data Practices Act.** OLA is the only legislative office subject to the Act, which makes all OLA documents and data subject to access by anyone who makes an access request under the Act. Responding to these requests can be extremely time consuming and resource intensive because OLA collects and maintains a large volume of not public data, which by law we cannot disclose. Thus, in responding to a request, we must ensure that we identify and segregate public data from not public data. This process is difficult not only because of the large amount of data and documents typically involved, but also because the laws that classify government data are voluminous and often unclear. Removing OLA from the Government Data Practices Act would relieve a significant work burden from OLA, but we understand that making that change would be controversial. Indeed, many advocates of government transparency have suggested that all legislative offices should be subject to the Act.
- 11. Add language to more explicitly acknowledge OLA's Special Reviews.** For many years, OLA has labeled investigations as "special reviews." While OLA's law clearly authorizes OLA to conduct investigations, as well as audits and evaluations, there may be some benefit to explicitly inserting a reference to "special reviews" in OLA's statutes.

MINNESOTA STATUTES 2020

3.97 LEGISLATIVE AUDIT COMMISSION.

Subdivision 1. Policy. Continuous legislative review of the spending of public funds and financing at all levels of government is required in the public interest to enable the enactment of appropriate legislation.

Subd. 2. Membership; terms; meetings; compensation; powers. The Legislative Audit Commission consists of:

- (1) three members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate;
- (2) three members of the senate appointed by the senate minority leader;
- (3) three members of the house of representatives appointed by the speaker of the house; and
- (4) three members of the house of representatives appointed by the house of representatives minority leader.

Members shall serve until replaced, or until they are not members of the legislative body from which they were appointed. Appointing authorities shall fill vacancies on the commission within 30 days of a vacancy being created.

The commission shall meet in January of each odd-numbered year to elect its chair and vice-chair. They shall serve until successors are elected. The chair and vice-chair shall alternate biennially between the senate and the house of representatives. The commission shall meet at the call of the chair. The members shall serve without compensation but be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section [3.153](#).

Subd. 3. [Repealed, [2006 c 262 s 2](#)]

Subd. 3a. Evaluation topics. The commission shall periodically select topics for the legislative auditor to evaluate. Topics may include any agency, program, or activity established by law to achieve a state purpose, or any topic that affects the operation of state government. The commission shall give primary consideration to topics that are likely, upon examination, to produce recommendations for cost savings, increased productivity, or the elimination of duplication among public agencies. The commission shall also give consideration to programs and statutory provisions that authorize grants, tax incentives, and other inducements for economic development. Legislators and legislative committees may suggest topics for evaluation, but the legislative auditor shall only conduct evaluations approved by the commission.

Subd. 3b. Review of financial management and internal controls. The commission shall review legislative auditor reports and make recommendations, as the commission determines necessary, for improvements in the state's system of internal controls and financial management.

Subd. 4. [Renumbered [3.971, subdivision 1](#)]

Subd. 5. [Renumbered [3.971, subd 2](#)]

Subd. 6. [Renumbered [3.971, subd 3a](#)]

Subd. 7. [Renumbered [3.971, subd 4](#)]

Subd. 8. [Renumbered [3.971, subd 5](#)]

Subd. 9. [Renumbered [3.979, subdivision 1](#)]

Subd. 10. [Renumbered [3.979, subd 2](#)]

Subd. 11. [Renumbered [3.979, subd 3](#)]

Subd. 11a. [Renumbered [3.979, subd 4](#)]

Subd. 12. [Renumbered subd 3a]

History: [1973 c 492 s 12](#); [1973 c 720 s 76](#) subd 2; [1975 c 204 s 90](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38](#); [1993 c 4 s 5](#); [1994 c 632 art 3 s 15](#); [1997 c 184 s 1](#); [1999 c 99 s 1,23](#); [1Sp2001 c 10 art 2 s 10](#); [2006 c 262 s 1](#); [2007 c 13 art 1 s 1](#); [2009 c 101 art 2 s 3](#); [1Sp2019 c 10 art 2 s 3](#)

3.971 LEGISLATIVE AUDITOR.

Subdivision 1. Appointment and term. The legislative auditor is the executive secretary of the commission. The legislative auditor shall be appointed by the commission for a six-year term and serve in the unclassified service. When in office, the legislative auditor may not at any time hold any other public office. The legislative auditor may not be removed from office before the expiration of the term of service except for cause after public hearing.

Subd. 2. Staff; compensation. (a) The legislative auditor shall establish a Financial Audits Division and a Program Evaluation Division to fulfill the duties prescribed in this section.

(b) Each division may be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. The salaries and benefits of the legislative auditor, deputy auditors and confidential secretaries shall be determined by the compensation plan approved by the Legislative Coordinating Commission. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized by the legislative auditor.

(c) The legislative auditor must appoint a fiscal oversight officer with duties that include performing the review under section [3.972, subdivision 4](#).

(d) The deputy auditors and the confidential secretaries serve in the unclassified civil service, but the fiscal oversight officer and all other employees of the legislative auditor are in the classified civil service. Compensation for employees of the legislative auditor in the classified service shall be governed by a plan prepared by the legislative auditor and approved by the Legislative Coordinating Commission and the legislature under section [3.855, subdivision 3](#).

(e) While in office, a person appointed deputy for the Financial Audit Division must hold an active license as a certified public accountant.

Subd. 3. [Repealed, [1998 c 366 s 90](#)]

Subd. 3a. Transfer of powers, duties, and responsibilities. All the powers, duties, and responsibilities of the Department of Public Examiner relating to the state of Minnesota, its departments and agencies as described in Minnesota Statutes 1971, section [215.03](#), and any other law concerning powers, duties, and responsibilities of the public examiner not otherwise dealt with by [Laws 1973, chapter 492](#), are transferred to the legislative auditor. Nothing in this subdivision shall supersede the powers conferred upon the commissioner of management and budget under section [16A.055](#).

Subd. 4. Prescribed duties. In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform duties prescribed by rule of the legislature or either body of it or by the commission.

Subd. 5. Testimonial powers. The legislature may, by rule, provide to the legislative auditor the testimonial powers that are conferred by law on legislative standing commissions or committees.

Subd. 6. Financial audits. The legislative auditor shall audit the financial statements of the state of Minnesota required by section [16A.50](#) and, as resources permit, Minnesota State Colleges and Universities, the University of Minnesota, state agencies, departments, boards, commissions, offices, courts, and other organizations subject to audit by the legislative auditor, including, but not limited to, the State Agricultural Society, Agricultural

Utilization Research Institute, Enterprise Minnesota, Inc., Minnesota Historical Society, ClearWay Minnesota, Minnesota Sports Facilities Authority, Metropolitan Council, Metropolitan Airports Commission, and Metropolitan Mosquito Control District. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance.

Subd. 6a. Data security audits. The legislative auditor shall audit, as resources permit, information and data systems supported with public funds and operated by an organization listed in subdivision 6. The audits shall include an assessment of controls designed to protect government data, particularly government data classified as not public by chapter 13, from unauthorized access and use. The audits shall also include an assessment of organizations' compliance with other applicable legal requirements related to the operation of information and data systems and proper classification and protection of the data contained in the systems.

Subd. 7. Program evaluations. The legislative auditor shall conduct program evaluations to determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including a critical analysis of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. The legislative auditor shall recommend ways to improve the effectiveness of the programs, reduce the cost of providing state services, and eliminate services of one agency that overlap with or duplicate the services performed by another agency. At the direction of the commission the legislative auditor may conduct program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473; or any program or activity established or funded, in whole or in part, by the state. After an evaluation report has been released, the legislative auditor may periodically conduct a follow-up review to assess what changes have occurred.

Subd. 8. [Repealed, [1Sp2003 c 1 art 2 s 136](#)]

Subd. 9. Obligation to notify the legislative auditor. The chief executive, financial, or information officers of an organization subject to audit under this section must promptly notify the legislative auditor when the officer obtains information indicating that public money or other public resources may have been used for an unlawful purpose, or when the officer obtains information indicating that government data classified by chapter 13 as not public may have been accessed by or provided to a person without lawful authorization. As necessary, the legislative auditor shall coordinate an investigation of the allegation with appropriate law enforcement officials.

History: ([53-13](#), [3286-9](#), [3286-16](#)) [1925 c 426 art 3 s 10](#); [1939 c 431 art 4 s 2,9](#); [1949 c 33 s 1](#); [1973 c 492 s 12,27](#); [1973 c 720 s 76](#) subd 2; [1975 c 204 s 90,91](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1984 c 638 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1988 c 703 art 1 s 7](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38,39](#); [1993 c 4 s 5](#); [1993 c 192 s 35](#); [1994 c 632 art 3 s 15,16](#); [1997 c 184 s 1,2](#); [1998 c 325 s 1](#); [1999 c 99 s 2,23](#); [1Sp2003 c 1 art 2 s 2](#); [2008 c 194 s 2](#); [2008 c 290 s 2](#); [2009 c 101 art 2 s 4,109](#); [2012 c 299 art 1 s 2](#); [2013 c 142 art 3 s 5-7](#); [1Sp2017 c 4 art 2 s 4,5](#); [1Sp2019 c 10 art 2 s 4](#)

3.972 AUDITS OF AGENCIES.

Subdivision 1. Public accountant. For the purposes of this section, "public accountant" means a certified public accountant or certified public accounting firm licensed in accordance with chapter 326A.

Subd. 2. Audits of state and semistate agencies. The legislative auditor shall make a constant audit of all financial affairs of all departments and agencies of the state, and of the financial records and transactions of public boards, associations, and societies supported, wholly or in part, by state funds. Once in each year, if funds and personnel permit, without previous notice, the legislative auditor shall visit each state department and agency, association or society and, so far as practicable,

- (1) inspect;
- (2) thoroughly examine its books and accounts, verifying the funds, securities, and other assets;

- (3) check the items of receipts and disbursements with its voucher records;
- (4) ascertain the character of the official bonds for its officers and the financial ability of the bonding institution;
- (5) inspect its sources of revenue and the use and disposition of state appropriations and property;
- (6) investigate the methods of purchase and sale and the character of contracts on public account;
- (7) ascertain proper custody and depository for its funds and securities;
- (8) verify the inventory of public property and other assets held in trust; and
- (9) ascertain that all financial transactions and operations involving the public funds and property of the state comply with the spirit and purpose of the law, are sound by modern standards of financial management and are for the best protection of the public interest.

Subd. 2a. Audits of Department of Human Services. (a) To ensure continuous legislative oversight and accountability, the legislative auditor shall give high priority to auditing the programs, services, and benefits administered by the Department of Human Services. The audits shall determine whether the department offered programs and provided services and benefits only to eligible persons and organizations, and complied with applicable legal requirements.

(b) The legislative auditor shall, based on an assessment of risk and using professional standards to provide a statistically significant sample, no less than three times each year, test a representative sample of persons enrolled in a medical assistance program or MinnesotaCare to determine whether they are eligible to receive benefits under those programs. The legislative auditor shall report the results to the commissioner of human services and recommend corrective actions. The commissioner shall provide a response to the legislative auditor within 20 business days, including corrective actions to be taken to address any problems identified by the legislative auditor and anticipated completion dates. The legislative auditor shall monitor the commissioner's implementation of corrective actions and periodically report the results to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance. The legislative auditor's reports to the commission and the chairs and ranking minority members must include recommendations for any legislative actions needed to ensure that medical assistance and MinnesotaCare benefits are provided only to eligible persons.

Subd. 2b. Audits of managed care organizations. (a) The legislative auditor shall audit each managed care organization that contracts with the commissioner of human services to provide health care services under sections [256B.69](#), [256B.692](#), and [256L.12](#). The legislative auditor shall design the audits to determine if a managed care organization used the public money in compliance with federal and state laws, rules, and in accordance with provisions in the managed care organization's contract with the commissioner of human services. The legislative auditor shall determine the schedule and scope of the audit work and may contract with vendors to assist with the audits. The managed care organization must cooperate with the legislative auditor and must provide the legislative auditor with all data, documents, and other information, regardless of classification, that the legislative auditor requests to conduct an audit. The legislative auditor shall periodically report audit results and recommendations to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

(b) For purposes of this subdivision, a "managed care organization" means a demonstration provider as defined under section [256B.69, subdivision 2](#).

Subd. 2c. Audits of the Department of Transportation. The legislative auditor must audit, as resources permit, the programs and services administered by the Department of Transportation.

Subd. 2d. Audits of the Department of Public Safety. The legislative auditor must audit, as resources permit, the programs and services administered by the Department of Public Safety.

Subd. 3. Audit contracts. Notwithstanding any other law, a state department, board, commission, or other state agency shall not negotiate a contract with a public accountant for an audit, except a contract negotiated by the state auditor for an audit of a local government, unless the contract has been reviewed by the legislative auditor. The legislative auditor shall not participate in the selection of the public accountant but shall review and submit

written comments on the proposed contract within seven days of its receipt. Upon completion of the audit, the legislative auditor shall be given a copy of the final report.

Subd. 4. MS 2018 [Repealed, [1Sp2019 c 3 art 3 s 140](#)]

History: (3276) [1913 c 555 s 3](#); [1949 c 33 s 2](#); [1973 c 492 s 28](#); [1983 c 317 s 2](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1992 c 542 s 4](#); [2001 c 109 art 2 s 1](#); [2010 c 191 s 1](#); [1Sp2017 c 4 art 2 s 6](#); [1Sp2017 c 6 art 4 s 1,2](#); [1Sp2019 c 3 art 3 s 1,2](#)

3.973 [Repealed, [1999 c 99 s 24](#)]

3.9735 MS 2018 [Repealed, [1Sp2019 c 10 art 2 s 27](#)]

3.974 DISTRIBUTION OF WRITTEN REPORT.

For each audit, evaluation, or other review completed, the legislative auditor shall provide a written report to the organization or individual audited, evaluated, or reviewed; the Legislative Reference Library; and the Legislative Audit Commission.

History: (3286-10) [1939 c 431 art 4 s 3](#); [1973 c 492 s 29](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1999 c 99 s 3](#)

3.9741 COST OF CERTAIN AUDITS.

Subdivision 1. Metropolitan Commission. Upon the audit of the financial accounts and affairs of a commission under section [473.595](#), [473.604](#), or [473.703](#), the affected Metropolitan Commission is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The legislative auditor may bill the Metropolitan Commission either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund.

Subd. 2. Postsecondary Education Board. The legislative auditor may enter into an interagency agreement with the Board of Trustees of the Minnesota State Colleges and Universities to conduct financial audits, in addition to audits conducted under section [3.972, subdivision 2](#). All payments received for audits requested by the board shall be deposited in the special revenue fund and appropriated to the legislative auditor to pay audit expenses.

Subd. 3. Legacy funds. The outdoor heritage fund, the clean water fund, the parks and trails fund, and the arts and cultural heritage fund must each reimburse the general fund, in the manner prescribed in section [16A.127](#), for costs incurred by the legislative auditor in examining financial activities relating to each fund.

Subd. 4. Minnesota Sports Facilities Authority. Upon the audit of the financial accounts and affairs of the Minnesota Sports Facilities Authority, the authority is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The legislative auditor may bill the authority either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund.

Subd. 5. State data security; account, appropriation. (a) The data security account is created in the special revenue fund.

(b) Subject to available funds appropriated under paragraph (a), the legislative auditor shall:

(1) review and audit the audit reports of subscribers and requesters submitted under section [168.327, subdivision 6](#), including producing findings and opinions;

(2) in collaboration with the commissioner and affected subscribers and requesters, recommend corrective action plans to remediate any deficiencies identified under clause (1); and

(3) review and audit driver records subscription services and bulk data practices of the Department of Public Safety, including identifying any deficiencies and making recommendations to the commissioner.

(c) The legislative auditor shall submit any reports, findings, and recommendations under this subdivision to the legislative commission on data practices.

History: [1984 c 638 s 2](#); [1988 c 469 art 1 s 1](#); [1993 c 13 art 2 s 2](#); [1Sp1993 c 2 art 3 s 1](#); [1995 c 212 art 4 s 1](#); [1995 c 254 art 1 s 37](#); [2010 c 361 art 3 s 1](#); [1Sp2010 c 1 art 14 s 1](#); [2012 c 299 art 1 s 3](#); [2014 c 293 s 1](#)

3.975 DUTIES CONCERNING MISUSE OF PUBLIC MONEY OR OTHER RESOURCES.

If a legislative auditor's examination discloses that a state official or employee has used money for a purpose other than the purpose for which the money was appropriated or discloses any other misuse of public money or other public resources, the legislative auditor shall file a report with the Legislative Audit Commission, the attorney general, and the appropriate county attorney. The attorney general shall seek recovery of money and other resources as the evidence may warrant. The county attorney shall cause criminal proceedings to be instituted as the evidence may warrant.

History: [\(3286-11\) 1939 c 431 art 4 s 4](#); [1973 c 492 s 30](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1999 c 99 s 4](#); [2009 c 101 art 2 s 5](#)

3.976 MS 1978 [Renumbered [6.74](#)]

3.977 [Renumbered [6.75](#)]

3.978 AUXILIARY POWERS.

Subdivision 1. Subpoena power. In all matters relating to official duties, the legislative auditor has the powers possessed by courts of law to issue and have subpoenas served.

Subd. 2. Inquiry and inspection power; duty to aid legislative auditor. All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, data of any classification, and property that the legislative auditor may need to inspect, and in all things aid the legislative auditor in the performance of duties.

Subd. 3. Penalties. (a) If a person refuses or neglects to obey any lawful direction of the legislative auditor, a deputy or assistant, or withholds any information, book, record, paper or other document called for by the legislative auditor for the purpose of examination, after having been lawfully required by order or subpoena, upon application by the auditor, a judge of the district court in the county where the order or subpoena was made returnable shall compel obedience or punish disobedience as for contempt, as in the case of a similar order or subpoena issued by the court.

(b) A person who swears falsely concerning any matter stated under oath is guilty of a gross misdemeanor.

History: [1974 c 118 s 1](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [2005 c 163 s 1](#)

3.979 DATA CLASSIFICATION AND DISCLOSURE.

Subdivision 1. Data practices. The legislative auditor is subject to the Government Data Practices Act, chapter 13, and shall protect from unlawful disclosure data classified as not public. If data provided by the legislative auditor to the commission is disseminated by the commission or its members or agents in violation of section [13.05, subdivision 4](#), the commission is subject to liability under section [13.08](#), subdivisions 1 and 3.

Subd. 2. Access to data by commission members. Members of the commission have access to data that is collected or used by the legislative auditor and classified as not public or as private or confidential only as authorized by resolution of the commission. The commission may not authorize its members to have access to private or confidential data on individuals collected or used in connection with the collection of any tax.

Subd. 3. Audit data. (a) “Audit” as used in this subdivision means a financial audit, review, program evaluation, best practices review, or investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been released by the legislative auditor or the audit is no longer being actively pursued. Upon release of a final audit report by the legislative auditor, data relating to an audit are public except data otherwise classified as not public.

(b) Data related to an audit but not published in the audit report and that the legislative auditor reasonably believes will be used in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or is no longer being actively pursued.

(c) Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual’s identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data.

(d) The definitions of terms provided in section [13.02](#) apply for purposes of this subdivision.

Subd. 4. Review of data; data protection. If, before releasing a report, the legislative auditor provides a person with data relating to the audit for the purpose of review and verification of the data, the person must protect the data from unlawful disclosure or be subject to the penalties and liabilities provided in sections [13.08](#) and [13.09](#).

Subd. 5. [Repealed, [2006 c 262 s 2](#)]

History: [1973 c 492 s 12](#); [1973 c 720 s 76](#) subd 2; [1975 c 204 s 90](#); [1980 c 484 s 1-3](#); [1981 c 311 s 39](#); [1982 c 545 s 24](#); [1983 c 317 s 1](#); [1985 c 248 s 70](#); [1986 c 444](#); [1988 c 469 art 1 s 1](#); [1989 c 351 s 1](#); [1991 c 345 art 1 s 38](#); [1993 c 4 s 5](#); [1994 c 632 art 3 s 15](#); [1997 c 184 s 1](#); [1999 c 99 s 23](#); [1Sp2001 c 10 art 2 s 11](#)